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October 21, 1988

TO: All Utilities

FROM: Barbara R. Alexander, Director, Consumer Assistance Division

SUBJECT: CAD Bulletin 88-3

In a recent meeting with [redacted] and the CAD concerning the recent revision of Chapter 81, you asked two questions that deserve a written response.

1. Your first question asked about the relationship between Section 6(B)(1) and 6(B)(4). Section 6(B)(1) requires a utility to confirm all payment arrangements in writing if these arrangements require more than one payment or any payment after the effective period of a pending disconnection notice. A utility, therefore, has the option of confirming or not confirming in writing oral arrangements that promise a lump sum payment within the 10-day window of a pending disconnection notice. Section 6(B)(4) instructs the utility as to the appropriate procedure if a payment arrangement was not confirmed in writing. In these cases, the utility must not disconnect the customer for failure to comply with an oral payment arrangement. You have asked whether or not the mandatory provisions concerning written confirmation of payment arrangements in Section 6(B)(1) allow a utility to take advantage of the option to not confirm lump sum oral arrangements in writing and to disconnect the customer when the oral agreement is not complied with. You indicate that it is possible to interpret Section 6(B)(4) as being applicable to arrangements that must be confirmed in writing, but were not. Your interpretation is not the staff's understanding of the intent of Section 6(B)(4).

6(B)(4) applies to those payment arrangements that a utility did not have to confirm in writing pursuant to Section 6(B)(1), i.e. arrangements that require one payment in full within the effective period of the pending disconnection notice. These arrangements are the only arrangements that can be made without a confirmation in.

writing. If the utility takes advantage of not confirming these types of arrangements in writing, Section 6(B)(4) still controls the utility's actions when the customer fails to comply with the oral agreement. The Commission's Order Adopting Rule (Docket No. 88-50, July 29, 1988) supports this intention: "An agreement to accept payment after the due date of a pending 14-day disconnection notice is a payment arrangement. It has the effect of cancelling the pending disconnection notice."

You should also note that the Commission's Order clarifies that the prohibition on disconnection in Section 6(B)(4) is not necessarily applicable to a broken arrangement disconnection notice. In these cases the utility has already confirmed an arrangement in writing and issued a 3-day disconnection notice for the full amount due because the customer has failed to comply with the written arrangement. A utility has the option to negotiate a reinstatement of the original arrangement by accepting payment of the catch up amount within the 10-day window of the disconnection notice. If the customer pays the missed installment payment, the original arrangement remains in effect and no further writing is required. If the terms of the original arrangement are renegotiated (i.e., installment payment amount changed), the new arrangement should be confirmed in writing. If the customer orally promises to make the catch up payment during the effective period of the disconnection notice, the utility may proceed to act on the pending notice if this oral promise is not kept.

2. You have also asked about the relationship between Section 3(B) and Section 8(A)(3) of Chapter 81. Section 3(B) describes when a utility can issue an estimated bill. A utility can issue an estimated bill at any time due to weather conditions, emergencies, equipment failures, and when the customer is billed on a seasonal basis according to the terms included in the tariff. If an estimated bill does not meet one of the exceptions, a utility cannot issue two consecutive estimated bills unless the customer has been provided with an opportunity to read the meter and report the actual usage. If the customer does not provide the actual usage on a form provided by the utility, the utility may then issue a second consecutive estimated bill. Section 8(A)(3) describes when a disconnection notice cannot occur. This provision states that the amount overdue on a disconnection notice must not include amounts owed from estimated bills. The only exception described in this provision is when the utility has attempted reasonable alternatives to gain access or obtain a reading supplied by the customer. You asked whether a utility may include estimated bills issued in compliance with Section 3(B) in a disconnection notice. It is the

staff's interpretation of these two provisions that Section 8(A)(3) does not allow the issuance of a disconnection notice for an estimated bill (even if allowed by Section 3(B)) unless the utility has sought an alternative access or reading supplied by the customer. Therefore, the issuance of one estimated bill does not allow the utility to include this amount on the subsequent disconnection notice. Otherwise, the exception to the prohibition on disconnection notices in Section 8(A)(3) would have no meaning.

This is an informal staff interpretation of Chapter 81. You, of course, have the right to request an Advisory Ruling from the Commission pursuant to Chapter 11, Section 5 of the Commission's Rules. This staff interpretation will be issued as a CAD Bulletin so that all utilities will have the benefit of your question and our response.

BA/bh